

COMCOR 19A.06.02 Administrative Policies and Procedures for Outside Employment (Employment Outside of the County Service; Non-Police Employees))

19A.06.02.01 Authority

1.0 Chapter 19A of the Montgomery County Code.

19A.06.02.02 Definitions

2.0 Definitions contained in Chapter 19A are hereby incorporated. See Section 19A-4, Montgomery County Code.

2.1 Confidential Information — Information whether oral or written in the custody of a county employee or an uncompensated appointed official which is not available to the public pursuant to State Government Article Section 10-622 et seq., Annotated Code of Maryland. This information includes personnel records, confidential commercial information and information protected by law.

2.2 County Employee — Any person, including elected or appointed officials (unless excepted in context), who are compensated in whole or in part by the Montgomery County Government or the Revenue Authority, Housing Opportunities Commission, Board of License Commissioners, independent fire departments or rescue squads.

2.3 County Property — All assets of the county, including but not limited to computers, office equipment, telephones, copiers, county letterhead, county cars (including Personal Patrol Vehicles) and police service revolvers.

2.4 Elected or Appointed Official — A person who is elected to office or appointed to a position by the County Executive or the County Council and is not subject to appointment procedures of the Merit System.

2.5 Outside Employment — The employment of a county employee performing work for compensation for other than the County or an agency, or the Revenue Authority, Housing Opportunities Commission, Board of License Commissioners, and independent fire departments and rescue squads. Outside employment shall not include any military, National Guard or volunteer (non-paid) service.

2.6 Supervisor — A county employee who has authority to hire, fire, rate the performance of, and/or direct the day-to-day activities of a subordinate employee.

2.7 Security-Related Outside Employment — Any employment where the County employee is hired for the express purpose of:

- a. Protecting the proprietary interests of the outside employer

- b. Protecting the outside employer's employees or customers: or
- c. controlling vehicular or pedestrian traffic on or near the outside employer's place of business.

2.8 Uniformed Security-Related Outside Employment — The security-related outside employment of a Montgomery County police officer who performs off-duty security services while wearing the Montgomery County Police uniform.

19A.06.02.03 Purpose

- 3.0 To establish clear and reasonable procedures and policies regulating outside employment for all employees of the county government and appropriate agencies.
- 3.1 These regulations do not address or supersede any prohibition or need for a waiver when a conflict of interest exists.

19A.06.02.04 Policies

- 4.0 County employees must receive approval pursuant to these regulations for all outside employment, regardless of whether the employment is performed after hours or during vacation periods.
- 4.1 County employees shall not engage in outside employment during the hours for which they are scheduled to work for the county or during approved sick, administrative, disability, parental or family and medical leave hours, as defined in the County Personnel regulations and bargaining agreements.
- 4.2 County employees and uncompensated appointed officials, while on duty, may not accept or solicit referrals or their outside employment, nor shall they distract or coerce other county employees during their scheduled work hours to buy or use products or services sold or offered as part of their outside employment.
- 4.3 County employees are prohibited from working for any person(s) or any entity in which an economic interest is held by a person(s) the county employee supervises or who supervises the County employee as part of their county employment.
- 4.4 County employees may not be employed by or have an economic interest in any business subject to the authority of or doing business with the county agency or department for which they work
- 4.5 County employees and uncompensated appointed officials may not use any county property whatsoever in the discharge of their outside employment including transport to and from their outside employment. Permission may be granted on a case- by-case basis when the employee obtains written approval by the department head pursuant to the regulation of the department or other respective collective bargaining agreement.

4.5.1 County police officers may utilize the following county equipment in the performance of their outside employment but may not do so solely to advance the interests of the outside employer: weapons/protective instruments (handgun, OC spray, ASP baton, Maglight flashlight), portable radio, ballistic vest, handcuffs, MCP badge and credentials.

4.5.2 While engaged in uniformed security-related outside employment, Montgomery County police officers may wear the police uniform and authorized issued equipment.

4.6 The Ethics Commission adopts and incorporates by reference the directives of individual county departments and agencies in regard to outside employment activities except when the Ethics Commission's policies are more restrictive, in which case they shall override any other directives, or when a specific directive is expressly superseded by an Ethics Commission policy.

4.7 County employees and uncompensated appointed officials may not use confidential information gained in county employment for personal financial gain or for any purpose other than use in county employment.

4.8 While a Montgomery County police officer is performing security-related outside employment, the officer shall not:

- (a) encourage visitation by on-duty police employees to his/her place of outside employment; or
- (b) conduct follow-up investigations of previously reported offenses.

4.9 While on duty, a Montgomery County police officer shall not show preferential coverage to the place of the officer's outside employment.

4.10 County employees with police powers may not engage in any outside employment which requires a Maryland State Investigator's License; this requirement shall not be applicable to ownership/conduct of a business, which engages in security-related work only.

4.11 County employees with Assistant State Fire Marshall powers and responsibilities may not engage in any outside employment in the State of Maryland which involves the establishment and enforcement of fire safety practices, preventive inspection and correction activities, coordination of fire safety programs and critical analysis and evaluation of Maryland fire loss statistics for determination of problems and solutions. Examples include, but are not limited to, conducting investigations for private individuals or entities and testifying in litigation involving fire issues.

4.12 Uncompensated appointed officials and county employees in the classifications within Grades S1-S6 and 5-13 are exempt from outside employment approval by the Ethics Commission, except from the classifications listed below:

Data Application Trainee

Computer Operator Trainee

Data Entry Operator I & II

Data Application Specialist I & II

Legislative Intern

However, all county employees and appointed officials remain subject to the provisions of all other Ethics Commission policies and the provisions of the Montgomery County Code, Chapter 19-A.

4.13 A county employee may request a waiver of these policies by the Ethics Commission in accordance with the criteria established in § 19A-8 of the Montgomery County Code.

19A.06.02.05 Procedures for Approval

5.0 Employee:

5.0.1 An employee must submit two completed copies of the outside employment form to his/her department head through his/her immediate supervisor. These forms can be obtained from the Ethics Commission. Each request shall include, but not be limited to, the following information:

- a. Employee's name, department, division, office telephone number, address and work schedule;
- b. Current position title with the Montgomery County Government and brief description of duties;
- c. Outside employer's name, address, telephone number, name of supervisor at outside employment, and nature of business of outside employer;
- d. Position title and description of duties to be performed in outside employment;
- e. Total number of hours proposed to be worked at outside employment each week and proposed work schedule;
- f. Anticipated length of employment (months/years/indefinite);
- g. Licenses or equipment required for outside employment.

5.1 Department Head and Supervisor:

5.1.1 The Department Head and Supervisor shall recommend approval or disapproval of the employee's request and forward the employee's request with recommendations, including specific conditions when appropriate, to the Ethics Commission. If disapproval is recommended, the Department Head or Supervisor shall state the specific reasons for the disapproval.

5.2 Ethics Commission:

5.2.1 The Ethics Commission shall review the request and make a final decision. The Ethics Commission shall then notify the employee and department/agency head in writing of its final decision.

5.3 Elected or Compensated Appointed Official:

5.3.1 Elected officials shall submit requests for outside employment approval directly to the Ethics Commission. Compensated appointed officials shall submit requests for outside employment approval to the Chief Administrative Officer. Elected officials and appointed officials may use either the outside employment request form available at the Ethics Commission office or may submit a memorandum which address all of the policies and procedures set forth in this Regulation.

19A.06.02.06 Provisions

6.1 County employees may begin outside employment when the employment is approved by the department/agency head, with the understanding that continuation of the outside employment is contingent upon final approval by the Ethics Commission. County employees engaged in outside employment without the approval of the department must submit requests immediately in accordance with Ethics Commission procedures. Failure to obtain Ethics Commission approval violates the Ethics Law and County Personnel Regulations and may result in disciplinary action and other penalties as provided by law.

6.2 County employees who have outside employment approval must notify their department/agency head promptly of any changes in the outside employer or the duties involved in the outside employment.

6.3 A county employee who receives approval for outside employment and later transfers to another department (or accepts another position within the department) must obtain approval from the new department/agency head (or reapply to the current department head) and obtain the approval of the Ethics Commission to continue outside employment. The original approval shall continue for the outside employment if the employee applies for approval within thirty (30) days after the transfer, unless the department/agency head or Ethics Commission denies approval. Otherwise, the approval terminates thirty (30) days after the transfer.

6.4 Employees given outside employment approval for a specific period of time are responsible for requesting reapproval of the outside employment to continue the employment beyond the specified period.

6.5 If there is no question regarding conflict of interest from the department/agency head, a request for outside employment with a duration of six (6) weeks or less may be approved by the department/agency head without review by the Ethics Commission.

19A.06.02.07 Departments/Agencies Affected

7.0 These regulations shall apply to all departments and agencies.

(Administrative History: Reg. No. 25-01 (Method 2); Dept.: Ethics Commission)